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ABSTRACT

To compare the ways staff and free-lance writers handle ethical issues, several writers were interviewed for personal experiences, and several daily and weekly newspapers and regional magazines were surveyed. Results indicated that the shield laws protecting staff writers do not apply to free-lance writers. Neither do the rules governing conflicts of interest for reporters (and, less stringently, management) apply to free-lancers. Unless the publication has set guidelines for accepting gifts or "freebies," staff writers must set their own limits, but free-lancers seldom receive such gifts. Staff writers sometimes decide whether or not to reveal they are reporters, and occasionally deception is used to get an an inside story; free-lancers working alone can seldom afford such undercover work. Unless on assignment and representing a publication, free-lancers have no identification by which to gain access to fast breaking or investigative stories. Often if a stringer or free-lancer comes across an important story, the editor can, apparently with impunity, give the story to a staff writer. Free-lancers do not have either the advantage of editorial or legal assistance or the job security that staff writers enjoy. Although editors do not provide the same protection, they expect the same quality, professionalism, and creative talent without giving any guidance about ethics. In order for free-lancers to remain professional in their work, they must be given ethical treatment and support. More emphasis on ethics in journalism by publishers who print the how-to books and magazines is needed to prepare free-lancers for the ethical dilemmas they will confront. (HTH)

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FREE-LANCERS - THE ETHICS

Winner of Third Prize
Moeller Award Competition
Undergraduate Division

by

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FREE-LANCERS - THE ETHICS

Working as a free-lance writer for the newspaper or magazine industry is a bit like an acrobat working without a net. Free-lancers, like their counterpart staff writers, practice their craft for years, work long and hard to get stories ready for print and even aspire to Pulitzer Prizes. The problems arise when the free-lancer figures out that the organizational editoral "net" isn't there.[1]

Ethical issues torment all journalists; how these problems are handled differs greatly between staffers and free-lancers. The problems this paper examines are shield laws, moonlighting, conflict of interest, freebies and deception. It further explores the editorial bias and double standards facing free-lancers, and the codes and canons of journalism which attempt to guide the actions of all journalists.

To make comparisons between staff and free-lance writers, several of each were interviewed for personal experiences. To get the editorial side of the picture, a survey was taken of two major city dailies, one urban weekly, six suburban weeklies and three regional magazines in the Midwest.

Staff writers and reporters can rely on a number of safety factors when faced with ethical issues. The editor, or even the publisher, can become involved in the decision. Or, if a staffer has run afoul of the courts, say by refusing to turn over notes of an interview, management can step in with advice and legal assistance, if necessary.

Free-lancer Christopher Van Ness found out what it was like to be a free-lancer without editorial support and uncovered what could prove to be the most chilling bit of news to free-lance reporters in recent years: shield laws (at least in California) don't apply to freelancers.

In October 1985 Los Angeles Municipal Judge James F. Nelson had sentenced Van Ness to ten days in jail for contempt of court when Van Ness refused to turn over a tape of an interview with Cathy Evelyn Smith, who was charged in the death of actor John Belushi. Van Ness had interviewed Smith in 1982 for a National Enquirer story. He had cited the protection of California's shield law, but Nelson said the statute applied only to regular media staff members.[2] The decision was upheld in Superior Court.

Even Indiana, with its comprehensive shield law, omits any mention of protection for free-lancers or stringers.[3] The legislature, although anxious to provide some press protection through the shield law, was obviously working with certain blinders still firmly in place.

Considering that staffers are finding it increasingly more difficult to protect their notes (or tapes)[4], it's no surprise that it's even harder for the free-lancers. But that doesn't make the bitter pill of being unable to protect sources any easier to swallow.

Conflicts-of-interest pose ethical questions for publications. Most newspapers have strict rules regarding reporters holding civic or commercial positions which would force them into a conflict of interest.[5] The waters get murky when applying those same rules to management. Pubishers and owners serve as board members for various organizations in cities served by their publications, citing their distance from the actual writing of the news as justification.[6] However, pubications seem unconcerned about the free-lancers' motives. Free-lancers are rarely—if ever—even asked what they do when they're not writing. One stringer who was interviewed said he had written seven articles for a large city daily before the editor ever saw his resume.

Editors often don't care what else free-lancers do with their lives, as long as it isn't murder or mayhem (and then they'd probably want the exclusive). For some obscure reason, a free-lancer who is also active in civil affairs, works for a public relations firm or writes ad copy for a retail firm, is not seen as a probable target for conflict of interest charges.

Even the many books pubished about free-lancing promote "professional promiscuity" of writers' talents, urging them to approach varied, often competing, markets to enhance their income. Commercial writing is even referred to as "bread and butter" writing, supposedly easy enough to do that a writer can whip up tons of the stuff for money while concentrating on more serious endeavors.[8]

Free-lancers, and by extension, their families, are freer to do other types of work, join in civic activities or work for competing organizations unless the situation is extreme. If a free-lancer does get an assignment which might present a conflict of interest, the ethical answer is to let the editor know about it, pronto.

So far, we have looked only at issues that can be addressed in the newsroom, or at least at the editor's level. But what about the troubles that arise in the field? That's where many ethical issues pop up and that's where they have to be handled.

The staffer's problem of gifts, or "freebies," is a little different from that of the free-lancer. Most gifts sent to staffers are unsolicited. Publicists constantly deluge the press with free tickets, samples and private viewings. Sometimes they are simple "thank yous" for good reviews. More often, they are thinly veiled pleas for free publicity. Common targets for this type of gift are art, book and movie critics, food columnists, sports and travel writers and the entertainment calendar editors.

Unless the publication has set guidelines for accepting gifts, staffers are on their own in setting limits. Most of the publications surveyed have vague rules for gifts.[9] Both dailies have written rules against free tickets, trinkets and cash. They even admonish reporters to pay for their own lunches when conducting business at lunch.

But for every rule against accepting freebies, there is an open-ended proviso that writers should "never chance appearing rude or arrogant by refusing token gifts." How does a reporter appear "rude or arrogant" by acting ethically?

Most free-lancers have no problem dealing with gifts--they don't get them. Except for a few very successful free-lancers, most are people whose byline gets lost on page 23 every couple of weeks. Publicity managers and public relations people don't know who they are and certainly aren't falling all over themselves to send gifts to the free-lancer's office-cum-dining room.

It would be a pleasant surprise to find a free-lancer who doesn't rely on free tickets to concerts, sports events or movies to do a story. But the reality is usually that free-lancers can't afford many expensive tickets. A $35 concert ticket chews up an awfully big chunk of a $50 review, and a book review that pays only $25 hardly justifies the $19.95 the writer paid for the book. Realizing this, books and magazines written for free-lancers have encouraged would-be reviewers to approach ticket sellers for free tickets and book publishers for review copies. Oddly enough, free-lancers have discovered that, by not belonging to an estabished publication (read staffer), they stand little chance of getting tickets to the likes of Bruce Springsteen or copies of Texas. It's odd that what staffers can't (supposedly) use, free-lancers can't get.

But we've still looked only at ethical concerns which can be taken care of before getting to the actual story. There are serious issues "on the scene" which affect both staffers and free-lancers, albeit quite differently.

Staffers sometimes face the decision of whether to reveal they are reporters. Using deception to get an inside story on a controversial or illegal organization isn't common practice, probably because it's dangerous and so many reporters don't feel the action is ethical. But it does happen. It even earned staffers at the Chicago Sun Times a shot at a Pulitzer.[10] But this case only points out another staffer advantage. Several reporters and other staffers manned the bar. Free-lancers almost always work alone; free-lancers can't afford to subsidize an operation like that unless they are independently wealthy.

Free-lancers also can't afford to spend four months on a single story. No story equals no pay check. Without a handsome advance payment and assurances of returns only identified with book sales, free-lancers are effectively shut out of this dilemma. They do face another sort of deception dilemma, however.

When free-lancers are on an assignment, they can tell police or others at the scene that they are working for a certain publication. But what happens when free-lancers are doing stories on their own, either "on spec" or with an eye to possible future submissions?

Legally, they represent no publication--they are free agents and, as such, are just private citizens, like anyone else. They find that the average person loves to talk to the "press." Professionals, however, immediately want to see a press card.

Up to now we have grouped stringers in the broader family of free-lancers. But, for a moment, consider stringers, who work almost exclusively for a single newspaper. Logically, stringers should carry some sort of identification which proves they are "legitimate" journalists. Sadly, because this isn't always a logical business, this isn't so. One of the newspapers surveyed ceased the practice of issuing press cards because stringers abused the privilege by getting in to events free with no intent to cover the story. Having no press cards solved one problem, but created another.[11]

The fact that staffers were committing the same sins with press cards didn't seem to matter. As in handling the problem of gifts and free tickets, there seems to be a definite double standard in dealing with free-lancers. That double standard eats into the attitudes of editors and pubishers.[12]

Free-lancers are systematically excluded from breaking or investigative stories. Editors assume that free-lancers are only committed on a part-time basis, unavailable for long-term assignments. They also are not as closely controlled by the editors themselves. Staff copy can be reviewed as it hits the computer screen and problems can be resolved promptly.

Other staff members can be called upon to assist with last-minute accuracy checks. Background material can be pulled from the morgue to augment the story as needed. If a story takes two or three days, it's no problem--that's what they're paid for.

But free-lancers are "out there somewhere" doing it alone. Their stories are written in their entirety before an editor sees them. In newspapers, the stringers' stories are often turned in only a couple of hours before press time, leaving little margin for error. They don't have the advantages of calling on fellow staff members for additional information or assistance. They don't have access to the morgue for backgroud material.

Freelancers also do not have the advice of a lawyer when dealing with sensitive stories. One free-lancer got her first assignment, over the phone, for a feature-length story on teen suicide. It may have been an excellent way to find out what that writer could do with a sensitive issue, but the editor took a might big chance, sitting at deadline, on getting any story at all.

The charge of "part-time" commitment is true for many free-lancers. Only the most successful are able to free-lance on a full-time basis. But the bigger problem appears to be simply that stringers don't get the in-house support routinely given to staffers. So free-lancers get such exciting assignments as town and school board meetings. Now don't get it wrong--some pretty exciting stuff goes on in those small town meetings. But when word gets out that a meeting is going to be newsworthy, the editors often assign a staffer to cover it, instead of the stringer regularly assigned to that territory.[13]

Why does this happen? Editors must have some faith in the free-lancers or they wouldn't allow them to work so independently against tight press schedules.

Is it ethical to allow a stringer to spend many months becoming familiar with the territory only to take the big story away at the last minute? And what happens if a stringer uncovers a breaking story during a regular beat--is it ethical to give the story to a staffer to complete during the next business day?

A county bureau chief for a major daily thinks it is. "A staff member has more time to develop the story and get the background interviews. I can spend an entire day on the telephone or at the newsroom if I need to. Most stringers don't have that kind of time. They work or go to school during the day. Stringing is just a nighttime occupation for them." On giving the breaking story to a staffer, he was a bit more sympathetic. "It's hard to give a story to someone else, especially if it's a good one. But the story has to come first."[14]

We reach into loyalty between writers and their editors here. Full-time staffers have a right to expect loyalty from editors. But what about free-lancers? When staffers get into some legal difficulties, as long as they aren't in direct conflict with the publisher's guidelines, the publication stands behind them. Free-lancers aren't treated quite so well.

Three of the twelve pubications surveyed said they would "drop" an offending free-lancer immediately, regardless of past experiences with him or her. Beyond a couple of phone calls, mostly to soothe feelings against the publication, editors felt they weren't required to come to the aid of the free agents. Even paper carriers get better treatment, because they are considered employees of the publication. Yet, many publications rely heavily on free-lancers to provide all of the information they need and to do a better job of it than some of their staffer counterparts.

The treatment of free-lancers by editors is a topic which deserves more intense research. Although the survey taken for this paper included several different types of publications, all were primarily midwestern enterprises. The same type of survey should be done on a national or even an international basis to find out if the treatment of free-lancers is common throughout the newspaper and magazine industry or is only an anomaly in the Midwest.

Another facet of loyalty is how free-lancers are paid. While staffers enjoy regular paychecks, free-lancers play a waiting game. Stringers are usually paid once a month, which isn't too bad. But free-lancers in the magazine markets are screaming for better treatment from publications. Late payment for submissions has become so serious that "Writer's Digest" devoted an entire issue to the topic, citing those markets which were slow- and low-paying.[15]

Editors often forget that free-lancers are professional journalists. There is nothing amateur in their desire to achieve the highest traditions of the field. They, too, aspire to see their byline and gain recognition for their hard work.

They are students, teachers, homemakers, lawyers, doctors and any other vocation you can think of, as well as a few whose occupation I wouldn't mention in front of a vice detective. They come from all types of backgrounds and their formal educational levels range from grade school to Ph.D. They are a large group of sensitive, sometimes eccentric and always oh-so-sceptical people with an intense desire to "get into print."

These people aren't bound by the conventions of a newsroom clock other than to meet press deadlines. They take assignments when the spirit--or an empty wallet--moves them. They like to work independently and on a schedule that fits their lifestyles.

Many journalists use their experiences as free-lancers as stepping-stones to staff jobs, often with the publication they worked for as stringers. Others free-lance to supplement their income while attending college; many are working toward journalism degrees. Still others are frustrated full-timers who find the market for journalists is glutted with applicants. A few hardy souls do free-lance full-time, writing and editing for a number of publications and associations. With a few famous exceptions, their annual income is nothing to brag about.

Although editors don't provide the same protections, they expect the same ethical standards from free-lancers as they do from the staffers. The expect the same quality, professionalism and creative talent without giving any guidance about ethics.

Why is there so little guidance about ethics? One reason is that editors themselves are often unclear about what to tell free-lancers. There are no simple ethical answers; in fact, if we look closely, there aren't even any simple ethical questions. Twenty professional journalists (we'll include editors for this one) will have twenty answers, and suggest just as many ways to revise the question to more accurately reflect the issue at hand. No two stories, no two journalists, no two editors face precisely the same ethical question in the same way.

Because of this, the numerous codes and canons of ethics published by professional organizations are purposely generalized and open to broad interpretation. And, while these codes espouse only the highest ideals and models of conduct, they are useful only as tools by pubications which <u>choose</u> to follow them.

Even within organizations which proudly pronounce their acceptance of the various credos of journalism, there is no standard application of them. The watered-down version which eventually finds its way into written rules has so many loopholes and provisions for reporter discretion that what little punch the codes had in their original form is lost completely.

The two major dailies had much more comprehensive written instructions for dealing with free-lancers than the other publications. They also had written codes of ethics. The suburban weeklies had no written codes, no formal guidelines for dealing with free-lancers. The magazines had only "writers' guidelines" to be handed out to free-lancers. The guidelines primarily addressed format and style, with only a few words about the relationship the company had with the writer (usually something about copyright).

Perhaps editors expect that free-lancers will have developed their own codes. Yet, many free-lancers are self-taught writers, editors or photographers. They have learned much their craft by doing it and by reading about it.

As a group, trying to perfect their craft, free-lancers spend millions of dollars each year on how-to books, magazines and seminars. But all of these are curiously devoid of ethical advice. Most advise sound judgement, tact and fair treatment of a subject, but that's about as close to the touchy ethical points as they dare to go. Some even suggest ideas that border on the unethical. One book suggested that free-lance photographers obtain membership cards which look like press cards from certain photo clubs. From a distance, during a crisis situation, the book hints, police and fire officials won't be able to tell the difference and won't have the time to check.[16]

In summation, free-lancers want to be professional in their work, just like staffers. But they must be given ethical treatment and support. More emphasis on ethics in journalism by publishers who print the how-to books and magazines is needed to prepare free-lancers for the sticky situations they will find themselves in. Journalism schools must include ethical studies throughout the curriculum, not just in a senior-level course. Editors must provide free-lancers with the written guidelines of the publication and offer to answer any questions the free-lancer may have about them.

Above all, free-lancers must be encouraged to continue, even when they get discouraged about grumpy editors and uncooperative sources. They must not be allowed to fold up their tents when the choices between unethical behavior and ethical alternatives become too confusing or hard to handle.

Free-lancers are the extensions of overworked newsroom and magazine staffs. Without them, much of the news and feature writing that we enjoy would disappear from the pages of our favorite newspapers and magazines. Without them the great framework of this strange chosen profession of ours, journalism, would be incomplete.

And that doesn't seem ethical either.

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NOTES

[1] For the purpose of this paper, we will look only at print media. The electronic media face similar ethical issues, but there are fewer free-lancers in the field.

[2] "Writer surrenders tape; freed from jail," Editor & Pubisher, Nov. 2, 1985, p.35.

[3] Hereafter, stringers will be included in the term free-lancers. They are free agents and operate under the same precepts as the free-lancer.

[4] "Reporter's contempt conviction overturned," Editor & Publisher, May 18, 1985, p.28.

[5] Bruce M. Swain, Reporter's Ethics, (Ames, IA: State Univ., 1978), p.13.

[6] John L. Hulteng, The Messenger's Motives: Ethical Problems of the News Media, 2nd Ed., (Englewood Cliffs, NJ: Prentice Hall, 1985) p.33.

[7] One free-lancer who was interviewed said that a major daily had called in March 1985, saying that someone at the school of journalism nearby had recommended him as a possible stringer. Without ever seeing a resume or samples of his work, the editor assigned him to a story. The relationship has continued, successfully, ever since.

[8] Nancy Edmonds Hammond, How You Can Make $20,000 a Year Writing, (Cincinnati: Writer's Digest Books, 1981) p.211.

[9] Of the twelve publications surveyed, eight had some restrictions on gifts, two had no written rules about gifts and one had no written ethical guidelines at all.

[10] David Shaw, Press Watch, (New York: Macmillan, 1984), p.210. It should be noted that the Sun-Times did not get the coveted Pulitzer in the end. A heated debate arose over using deception and misrepresentation as legitimate journalistic techniques. The staffers had operated a bar incognito for four months to expose graft and corruption in Chicago.

[11] One newspaper in the survey stopped issuing press cards about a year ago. The editors are painfully aware of the situation stringers find themselves in without identification. They encourage stringers to become well known in their areas so town officials, police and fire department supervisors know them by sight.

[12] Of the publications surveyed, four refused to comment on any policies which applied to staffers but not freee-lancers, and vice-versa. Most editors felt that staffers deserved some preferential treatment in assignments and editorial assistance, but that other policies were fairly equal.

[13] Within one year, one stringer's area was covered by a staff reporter six times—each time when a controversial topic was being dealt with in a town meeting. It has only been within the past month that the free-lancer was allowed to cover a breaking story about a school board vote on policies for victims of AIDS. The staffer who took his place on those occasions was committed elsewhere that night.

[14] As one of the stringers who works for the bureau chief, I turn information about a breaking story over to him. I may not get the credit, but the public gets the story. It's not so much an ethical position for me as the fact that I enjoy watching political factions tripping over their mistakes which make it into print.

[15] Harvey L. Bilker, Photojournalism: A Freelancer's Guide, (Chicago, Contemporary Books, 1981) pp. 155-159.

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